
(1930) 03 AHC CK 0029
In the Allahabad High Court

Shakur

APPELLANT

Vs

B. Sanwal Das

RESPONDENT

Date of Decision : 07-03-1930

Acts Referred:

Citation : AIR 1930 All 630

Hon'ble Judges : Niamatullah, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Niamatullah, J.—For facts of the case in controversy between the parties to this appeal, see my order of remand dated 6th December 1929. The finding returned by the lower appellate Court on the issue remitted by that order is as follows:

I hold that the plaintiff, who is "lambardar" collects rents from the tenants, pays the Government revenue and is entitled to eject tenants and sue for enhancement of rents in respect of the land of village Kariawan included in mahal Malih Khan.

2. It is not disputed by the respondent that he has extended his possession to the land adjoining the site of his house as it originally was. The plaintiff claims demolition of the defendant's house so far as it encroaches on such land. It has not been alleged by the defendant, much less proved, that he obtained the permission of any of the co-sharers for building on the land which was outside the site of his house. The question, therefore, is between the "lambardar" of the "mahal" within which the land in dispute lies and a trespasser, pure and simple. If it were a case of competition between a lambardar on the one hand and some or all of the co-sharers on the other, the question would be debatable. In view of the powers of a lambardar detailed in 8. 264, Agra Tenancy Act (3 of 1926), which have been taken almost literally from *Gulzari Mal v. Jai Ram* [1914] 36 All 441 a trespasser, as the defendant is, cannot question the right of the lambardar to eject him from common land situate in the estate under his management. The

interest of a lambardar in the "abadi" land belonging to the body of co-sharers whom he represents is certainly of a character which entitles him to proceed against squatters and trespassers. In suits of this kind he is not seeking to take exclusive possession of any land belonging to his co-sharers, nor does his action prejudicially affect the rights of his co-sharers. Prima facie his action in obtaining ejectment of trespassers is for the benefit of the whole body of co-sharers.

3. I have been referred to *Sheikh Abdur Raoof v. Bachoo* 5 Rev. Rep. 33, in which a learned Judge of this Court held that it is within the competence of a lambardar to give permission to a tenant to erect a "kachcha" house on the land belonging to a joint "patti." If he has power to allow "abadi" land to be built on, there can be no question that he has the converse power of ejecting persons who have built on the "abadi" land without his permission or the permission of the co-sharers entitled to exercise a power in that behalf.

4. It has been argued before me that the plaintiff, though he is a lambardar of the mahal in which village Kariawan is situated, has no interest in any land within the ambit of village Kariawan itself. This may be so, but being part of the mahal of which the plaintiff is a lambardar, it is jointly and severally responsible to the Government for the revenue of the entire mahal. The lambardar collects the rents in respect of village Kariawan. The lower appellate Court has found that he has authority to let agricultural land and to eject tenants and do all other acts incidental to the management of the village. Under these circumstances I do not think that the fact he does not own any land in village Kariawan detracts from his power as lambardar which he would have possessed in any other case.

5. Its the view of the case that I have taken, I uphold the decree of the lower appellate Court and dismiss this appeal with costs.